

## GOVERNMENT OF PUDUCHERRY

## LABOUR DEPARTMENT

(G.O. Rt. No. 41/AIL/Lab./J/2011, dated 25th February 2011)

## NOTIFICATION

Whereas, the Award in I.D.No.5/2007, dated 25-11-2010 of the Labour Court, Puducherry in respect of the industrial dispute raised by Thiru R. Kumarasamy against the management of M/s. Servo Packaging Limited, Puducherry over non-employment has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) read with the notification issued in Labour Department's G. O. Ms No.20/91/Lab./L, dated 23-5-1991, it is hereby directed by Secretary to Government (Labour) that the said Award shall be published in the official gazette, Puducherry.

(By order)

**G. MALAR KANNAN,**

Joint Secretary to Government (Labour).

**BEFORE THE LABOUR COURT AT PONDICHERRY**

*Present :* Thiru T. MOHANDASS, M.A., M.L.,  
II Additional District Judge,  
Presiding Officer, Labour Court.

*Thursday, the 25th day of November 2010***I. D. No. 5/2007**

R. Kumarasamy,  
72, School Street,  
Kattukuppam, Pondicherry. . . Petitioner

*Versus*

Servo Packaging Limited, represented.  
by its Proprietor Suresh Jalan. . . Respondent

This industrial dispute coming on 10-11-2010 for final hearing before me in the presence of Tmt. D. Kavitha, advocate for the petitioner and Thiru K. Parthiban, advocate for the respondent, upon hearing both sides, upon perusing the case records, after having stood over for consideration till this day, this court passed the following:

**AWARD**

This industrial dispute arises out of the reference made by the Labour Department, Government of Pondicherry *vide* G.O. Rt. No.28/2007/Lab./AIL/J dated 23-2-2007 for adjudicating the following:-

1. Whether the non-employment of R. Kumarasamy by the management of M/s. Servo Packaging Limited, Puducherry is justified or not?

2. To what relief, he is entitled to?

3. To compute the relief, if any, awarded in terms of money if it can be so computed?

2. The petitioner, in his claim statement, has averred as follows:

The petitioner was working as Junior Winder in the respondent company since 1997. On 6-2-1999 the petitioner was working in II Shift and at about 5.00 p.m. he was drawing tape from the extruder to the winder and accidentally his right hand upto elbow went between the pressure roller. He was taken to East Coast Hospital, Pondicherry and admitted as inpatient for 20 days from 6-2-1999 to 27-2-1999 and then he was admitted at General Hospital, Chennai from 27-2-1999 to 3-4-1999 and two surgeries including plastic surgery was done, hence, he was forced to spend money for his medical treatment from out of his own pocket, while the accident happened during the course of his employment.

Then he had taken treatment at E.S.I. Hospital, Pondicherry and got fitness certificate from E.S.I. on 3-10-2000 to join duty. As such he joined as a Junior Winder in the extruder section, but the management did not allow him and he was suspended on 16-10-2000 by one of the Directors of the company. After intervening of the union labourers, he joined duty on 19-10-2000. Without any reasonable cause, he was again suspended by the management with effect from 4-1-2001 is purely on victimisation. The management paid the subsistence allowance to him up to the year 2003 and then stopped the said payment. Due to the injury and without wages, he could not able to run the life with his family. Then he issued so many letters to the company, but they did not care about him. Therefore, the petitioner filed a petition before the Labour Officer (Conciliation) for reinstatement with back wages and all consequential benefits, but the conciliation ended in failure.

He was getting monthly pay of ₹ 1,350 at the time of accident and the scope of getting promotion and employment till he is aged 60 is bright and on account of permanent disablement, the prospect of earning for the next 36 years has become nil. The respondent has not even chosen to show any sympathy on the petitioner when he went to call on them for compensation. Hence, the petitioner is entitled to get the compensation for loss of income for his permanent disablement, mental

agony and for medical expenses incurred by him. However on practical consideration, the petitioner is restricted his claim for reinstatement with back wages, continuity of service and all other attendant benefits in the respondent's company. Hence, this industrial dispute is filed.

3. In the counter statement, the respondent has stated as follows:-

Since the petitioner has been getting his benefit under E.S.I. Act, the petition is not maintainable. Though the accident had occurred only due to the petitioner's own negligence, the respondent company had provided the requisite medical treatment to the petitioner by spending huge money in this regard. The petitioner, after getting cured his injury came to the respondent's company and asked for employment. Eventhough the petitioner is not fit for any employment, the respondent on humanitarian consideration, had given the employment to the petitioner. But the petitioner without attending the work, loitered inside the factory and thereby disturbed the other workers, who were attending from duty. On 18-10-2000 and on 3-1-2001 the petitioner along with 30 henchmen forcibly entered into the factory premises and stopped the machines and caused production loss to the respondent company. Since the petitioner himself left from service voluntarily and did not turn for duty for years together and did not utilise

The offer of employment, the respondent was constrained to presume that the petitioner had voluntarily abandoned from his service. As per the company Model Standing Order, any workmen remained absent without leave or permission for more than 8 consecutive days including weekly off and holidays, he shall be deemed to have left the employment. But in the instant case, the petitioner has absent from his duty for years together without leave or permission and hence the petitioner has ceased his employment on his own volition. In view of the said facts, the petitioner is no *locus standi* to file the present industrial dispute and hence the respondent prays for dismissal of the industrial dispute

4. On the side of the petitioner, the petitioner examined himself as PW.1 and Ex.P1 to Ex.P15 were marked. On the side of the respondent, RW.1 and RW2 were examined and Ex.R1 to Ex.R5 were marked. Ex.C1 was marked as court exhibit.

5. *The point for determination is:*

Whether the petitioner can be considered for reinstatement in service with back wages?

6. *On the point:*

The contention of the petitioner is that he was working as Junior Winder in the respondent company since 1997. On 6-2-1999 he was working in II Shift and at about 5.00 p.m. he was drawing tape from the extruder to the winder and accidentally his right hand up to elbow went between the pressure roller. He was taken to East Coast Hospital, Pondicherry and admitted as inpatient for 20 days from 6-2-1999 to 27-2-1999 and then he was admitted at General Hospital, Chennai from 27-2-1999 to 3-4-1999 and two surgeries including plastic surgery was done. Hence, he was forced to spend money for his medical treatment from out of his own pocket, while the accident happened during the course of his employment. Then he had taken treatment at E.S.I. Hospital, Pondicherry and got fitness certificate from E.S.I. on 3-10-2000 to join duty. As such he joined as a Junior Winder in the extruder section, but the management did not allow him and he was suspended on 16-10-2000 by one of the Directors of the company. After intervening of the union labourers, he joined duty on 19-10-2000. Without any reasonable cause, he was again suspended by the management with effect from 4-1-2001 is purely on victimisation.

7. In order to prove his claim, the petitioner has marked Ex.P1 to Ex.P15. Ex.P1 is the identity card of the petitioner, Ex.P2 is the accident report from E.S.I. Authorities, Ex.P3 is the medical bills, Ex.P4 is the OPD slip, Ex.P5 is the referral slip. Ex.P6 is the letter sent by the Superintendent, E.S.I. Hospital to General Hospital, Chennai, Ex.P7 is the letter sent by the Deputy Director (ESI) to the Medical Superintendent, E.S.I. Hospital. Chennai, Ex.P8 is the fitness certificate, Ex.P9 is the medical certificate issued by E.S.I. Dispensary, Kirumampakkam, Ex.P10 is the letter issued by the Medical Superintendent, E.S.I. Hospital, Pondicherry to the Deputy Director (ESI), Mudaliarpet, Ex.P11 is the treatment case sheet.

8. It is an admitted fact that the petitioner was the employee under the respondent company and on 6-2-1999 while he was on duty, he met with an accident, in which his right hand upto elbow got hold between the pressure roller and he took treatment at East Coast Hospital, Pondicherry and then at General Hospital, Chennai.

9. It is the further case of the petitioner that after the accident, he joined as a Junior Winder in the extruder section, but the management did not allow him and he was suspended on 16-10-2000 by one of the Directors of the company. After intervening of the union labourers, he joined duty on 19-10-2000. Without any reasonable cause, he was again suspended by the management with effect from 4-1-2001

is purely on victimisation. The management paid the subsistence allowance to him up to the year 2003 and then stopped the said payment and due to the injury and without wages, he could not able to run his life.

10. *Per contra*, the contention of the respondent is that though the accident had occurred only due to the petitioner's own negligence, the respondent company had provided the requisite medical treatment to the petitioner by spending huge money in this regard. The petitioner, after getting cured his injury came to the respondent's company and asked for employment. Eventhough the petitioner is not fit for any employment, the respondent, on humanitarian consideration, had given the employment to the petitioner. But the petitioner without attending the work, loitered inside the factory and thereby disturbed the other workers, who were attending from duty. On 18-10-2000 and on 3-1-2001 the petitioner along with 30 henchmen forcibly entered into the factory premises and stopped the machines and caused production loss to the respondent company.

11. To prove the said contention, one Narayana Rao was examined as RW.1 and through him Ex.R1 to Ex.R3 were marked. Ex.R1 is the power of attorney, Ex.R2 is the resolution passed in the meeting of the Board of Directors and Ex.R3 is the standing order of respondent company. Though the respondent has stated that the petitioner along with 30 henchmen entered into the factory premises and stopped the machines and caused production to the respondent company, there is no complaint filed by them against the petitioner with the police. RW.1 has admitted in his cross-examination that no police complaint has been filed against the petitioner with the police with regard to the said incident. Hence, the said contention cannot be believed.

12. The petitioner's case is that he was not given employment from 16-10-2000 and after intervention of some union leaders, he joined duty on 19-10-2000 and then he was suspended from 4-1-2001. Admittedly, the petitioner met with an accident while he was on duty on 6-2-1999 in which he sustained grievous injuries on his right hand and in spite of several letters sent to the respondent, they did not care about him. There is no misconduct on the part of the petitioner by the respondent, It is also to be noted that there was no memo or show cause notice issued to the petitioner and no domestic enquiry was conducted before denying the employment to the petitioner by the respondent.

13. The further contention of learned counsel for the petitioner is that the petitioner's request citing health ground that he might be given some light category work was not only acceded to, but the

management did not give employment to him. When the health condition of the petitioner is known to the respondent, it is for the respondent to consider his request on humanitarian grounds and post him in light work. It is unfair and unjustified and lacking in humanitarian consideration on the part of the management to have denied the employment to the petitioner despite his health condition. Human life is precious and loss of human life cannot be compensated in terms of any benefit. These points had been totally forgotten by the management before having ventured to deny the employment to the petitioner.

14. But on the side of the respondent, it is contended that eventhough the said accident had occurred only due to the petitioner's own negligence, the respondent company had provided the requisite medical treatment to the petitioner by spending huge money and the petitioner after getting cured his injury, came to the respondent's factory and asked employment and eventhough the petitioner is not fitting for any employment, the respondent on humanitarian consideration, had given employment to the petitioner, but the petitioner without attending the work, loitered inside the factory and thereby disturbed the other workers, who were attending their duty.

15. Though the petitioner has stated that he was given employment in spite of several letters sent to the respondent, during the cross-examination, he has admitted that after the accident, he was posted as Bobbin Distributor in the respondent mill and the said employment was on humanitarian grounds. The relevant portion of his evidence is as follows :-

விபத்திற்கு பிறகு கம்பெனியில் பாயின் டிஸ்ட்ரிபட்டராக பணியில் அமர்த்தப்பட்டேன். ... .. எனக்குக் கருணை அடிப்படையில் பாயின் டிஸ்ட்ரிபட்டர் வேலை கொடுத்தார்கள் என்றால் சரிதான்.

During the cross-examination, the petitioner has also stated that he is getting ₹ 450 per month from E.S.I. Corporation for the injuries sustained by him. The relevant portion of his evidence is as follows:-

இந்த விபத்து ஏற்பட்டதின் விளைவாக இ. எஸ். ஐ.. யில் இருந்து மாதம் ரூபாய் 450 தொகை கொடுக்கிறார்கள்.

From the evidence of PW.1, it is clearly proved that after the accident, he is getting ₹ 450 from the E.S.I. Corporation for the injuries sustained by him and the respondent has given employment to him.

16. Apart from that, the Asst. Inspector of Labour was examined as RW.2 and through her, the conciliation proceedings, which have been conducted by the Conciliation Officer was marked as Ex.C1.

Perusal of Ex.C1 would reveal that the conciliation between the petitioner and the respondent was conducted by the Labour Officer (Conciliation) on various dates and during the course of conciliation, the respondent has stated that they are ready to give the suitable light work to the petitioner, but the petitioner was not interested to join duty and demanded for compensation amount *in lieu of* reinstatement. From Ex.C1, it is clear that eventhough the respondent was ready to give employment to the petitioner, the petitioner refused to work in the respondent company and demanded for compensation amount.

17. The learned counsel for the respondent would argue that eventhough the petitioner was given re-employment on humanitarian consideration, he has not chosen to utilise the same but he himself left from the service voluntarily on his own and did not turn for duty for years together. He further submitted that as per Company's Model Standing Order, if any workman remains absent without leave or permission for more than eight consecutive days including weekly off and holidays, he shall be deemed to have left the employment and in the instant case, the petitioner has absented from his duty for years together without leave or permission and hence the petitioner ceased his employment on his own volition.

18. When the learned counsel for the respondent pointed out the Company's Model Standing Order stating that if any workman remains absent without leave or permission for more than eight consecutive days, it is for the respondent, who has to issue charge memo. to the petitioner, calling for his explanation and after getting explanation, if not satisfied by them, they have to initiate disciplinary proceedings and based on the enquiry report, the action should have been initiated against him. But in the instant case, the respondent has not followed the said procedures and they simply stated that the petitioner has absented from his duty for years together without leave or permission and hence the petitioner ceased his employment on his own volition, which cannot be accepted. It is well settled law that even for minor penalties, the workman should be given an opportunity to hear in person before passing of any order by the management. It is pertinent to refer the following decision, which is very relevant to this case:-

**2002 SCC (L&S) 188:**

*O.K. Bhardwaj Vs. Union of India and others:-*

“Departmental enquiry - Natural justice-*Audi alteram partem*-whether could be dispensed with in case of minor penalties Supreme Court

agreeing with High Court's first proposition that withholding increments of pay with or without cumulative effect is a minor penalty but declining to accept its second proposition that giving an opportunity of hearing to the delinquent employee in case of minor penalties is not essential- Opportunity of being heard, held could not be dispensed with even in case of a minor penalty - Though respondent contending that the compliance with the principles of natural justice was adequate but since High Court not considering the matter from the said angle, matter remitted to High Court for disposal with due regard to the principles of natural justice - Administrative Law Natural justice - *Audi alteram partem* Opportunity of being heard, held essential even in case of minor penalties.”

Considering the facts and circumstances of this case, I feel that this is a fit case for ordering reinstatement. As far as the back wages are concerned, I consider that some amount can be awarded to the petitioner, since the amount directly awarded by the E.S.I. Corporation is not sufficient for the injury caused to the petitioner during the course of employment. But he is not entitled for any compensation, since he has got number of years of service in his career. Hence, the respondent is directed to sympathetically consider the case of the petitioner and reinstate and post him in a light category work with continuity of service and 10% of back wages. Accordingly, this point is answered.

19. In the result, the industrial dispute is allowed and the respondent is hereby directed to reinstate the petitioner with continuity of service and 10% of back wages. However, there is no order as to costs.

Typed to my dictation, corrected and pronounced by me in the open court on this the 25th day of November 2010.

**T. MOHANDASS,**  
II Additional District Judge,  
Presiding Officer, Labour Court,  
Pondicherry.

*List of witnesses examined for the petitioner :*

PW1 — 4-3-2010 R. Kumarasamy

*List of witnesses examined for the respondent :*

RW1 — 15-4-2010 Narayana Rao

RW2 — 21-10-2010 Anandhi, Assistant Inspector of Police.

*List of exhibits marked for the petitioner :*

- Ex.P1 — Copy of the identity card of the petitioner  
 Ex.P2 — Accident report  
 Ex.P3 — Medical bills  
 Ex.P4 — OPD slips  
 Ex.P5 — Referral slip, dated 14-6-1999  
 Ex.P6 — Letter, dated 16-6-1999 sent by E.S.I.  
 Ex.P7 — Letter dated 14-6-1999 sent by Deputy Director, E.S.I. Hospital.  
 Ex.P8 — Fitness certificate issued by E.S.I.  
 Ex.P9 — Copy of medical certificate, dated 5-1-2001  
 Ex.P10 — Copy of letter dated 14-6-1999 sent by Deputy Director E.S.I.  
 Ex.P11— Case sheet  
 Ex.P12— Taxi bill, dated 27-2-1999  
 Ex.P13— Bus tickets  
 Ex.P14 — Medical bills  
 Ex.P15 — Blood bank receipts

*List of exhibits marked for the respondent :*

- Ex.R1 — Power of attorney  
 Ex.R2 — Copy of board resolution, dated 8-3-2010.  
 Ex.R3 — Copy of standing order, dated 26-5-2003  
 Ex.R4 — Letter dated nil sent by Labour Officer  
 Ex.R5 — Copy of letter, dated 14-9-2006 to Secretary to Government.

*List of court exhibits:*

- Ex.C1 — Conciliation proceedings.

**T. MOHANDASS,**  
 II Additional District Judge,  
 Presiding Officer, Labour Court,  
 Pondicherry.

**GOVERNMENT OF PUDUCHERRY**  
**LABOUR DEPARTMENT**

(GO. Rt. No. 42/AIL/Lab./J/2011, dated 25th February 2011)

**NOTIFICATION**

Whereas, the Award in I.D. No. 4/2005, dated 30-9-2010 of the Labour Court, Puducherry in respect of the industrial dispute raised by the Pondicherry Jananayaga Sengal Urpathi Thozhilalargal Sangam (AICCTU) against the management of M/s. Puduvai Brick Makers Private Limited, Puducherry over non-employment of 29 workers has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) read with the notification issued in Labour Department's G.O. Ms. No. 20/91/Lab./L, dated 23-5-1991. it is hereby directed by Secretary to Government (Labour) that the said Award shall be published in the official gazette, Puducherry.

(By order )

**G. MALAR KANNAN,**  
 Joint Secretary to Government (Labour).

**BEFORE THE LABOUR COURT AT PONDICHERRY**

*Present:* Thiru T. MOHANDASS. M.A, B.L., P.G.D.H.R.D.I.  
 II Additional District Judge,  
 Presiding Officer, Labour Court.

*Thursday, the 30th Day of September 2010.*

**I.D. No. 4/2005**

The President/Secretary,  
 Pondicherry Jananayaga Sengal Urpathi  
 Thozhilalargal Sangam,  
 Pondicherry. . . Petitioner

*Versus*

The Managing Director,  
 Puduvai Brickmakers (P) Ltd.,  
 Pondicherry . . . Respondent

This industrial dispute coming on this day for hearing before me in the presence of Thiru G. Mohan Keerthi Kumar, advocate for the petitioner, Thiru M. Vaikunth, advocate for the respondent, upon perusing the case records, this court passed the following:

**AWARD**

This industrial dispute arises out of the reference made by the Labour Department, Government of Pondicherry vide G.O. Rt. No.156/2004/Lab./AIL/J, dated 20-12-2004 for adjudicating the following:—

(a) Whether the claim of the union for non-employment of 29 workers listed below against the management of M/s. Puduvai Brick Makers Private Limited is justified or not?

- |                    |                   |
|--------------------|-------------------|
| 1. T. Subramanian  | 10. P. Ramasamy   |
| 2. N. Samidurai    | 11. M. Murthy     |
| 3. R. Kuppusamy    | 12. M. Rajaveni   |
| 4. V. Muniyandi    | 13. K. Theepanjan |
| 5. S. Harikrishnan | 14. J. Sundari    |
| 6. K. Mohan        | 15. R. Indira     |
| 7. K. Jothi        | 16. T. Rajaveni   |
| 8. T. Iyyappan     | 17. P. Rajakumari |
| 9. A. Rangasamy    | 18. K. Veeramma   |

- |                      |                     |
|----------------------|---------------------|
| 19. R. Vijayalakshmi | 25. P. Vasantha     |
| 20. A. Sumathi       | 26. K. Thavamani    |
| 21. K. Tharaveni     | 27. V. Mathiyarasan |
| 22. M. Geetha        | 28. M. Devi         |
| 23. A. Lalitha       | 29. Sarasu          |
| 24. S. Sangeetha     |                     |

(b) To what relief, they are entitled to?

(c) To compute the relief, if any, awarded in terms of money, if it can be so computed?

2. On the side of the petitioner, the claim statement was filed and then the matter was posted for filing of counter by the respondent. In spite of repeated opportunities, the respondent has not filed the counter. On the side of the respondent, no representation was made. Hence, the respondent was called absent and set *ex parte*. The petitioner was examined as PW.1 and Ex.P1 to Ex.P11 were marked. Claim proved. The petition is allowed as prayed for. No costs.

Typed to my dictation, corrected and pronounced by me in the open court on this the 23rd day of September 2010.

**T. MOHANDASS**  
II Additional District Judge,  
Presiding Officer, Labour Court,  
Pondicherry.

*List of witnesses examined for the petitioner :*

PW.1 — 23-09-2010 - T. Subramanian

*List of witnesses examined for the respondent : Nil*

*List of exhibits marked for the petitioner :*

Ex.P1 — Copy of the certificate issued by the respondent, dated 25-3-1995.

Ex.P2 — Copy of the letter by petitioner - union, dated 23-10-2002.

Ex.P3 — Copy of the order passed by Principal Sub-Judge, Pondicherry, dated 25-10-2002.

Ex.P4 — Copy of the letter by respondent, dated 29-10-2002.

Ex.P5 — Copy of the letter by the respondent, dated 6-11-2002.

Ex.P6 — Copy of the letter from respondent, dated 11-11-2002.

Ex.P7 — Copy of the letter from Chief Inspector of Factories, dated 8-4-2003.

Ex.P8 — Copy of the letter from the petitioner-union, dated 28-4-2003.

Ex.P9 — Copy of the letter from respondent company, dated 18-7-2003.

Ex.P10 — Copy of the notification by Government of Pondicherry, dated 20-12-2004.

Ex.P11 — Copy of the failure report, dated 10-12-2003.

*List of exhibits marked for the respondent: Nil*

**T. MOHANDASS,**  
II Additional District Judge,  
Presiding Officer, Labour Court,  
Pondicherry.

## GOVERNMENT OF PUDUCHERRY LABOUR DEPARTMENT

(G.O. Rt. No. 43/AIL/Lab/J/2011, dated 25th February 2011)

### NOTIFICATION

Whereas, the Award in I.D.No.2/2009, dated 24-11-2010 of the Labour Court, Puducherry in respect of the industrial dispute between the management of M/s. Anglo-French Textiles, Puducherry and Puducherry Manila Pattali Thozhir Sangam, Puducherry over non-payment of wages to 3 workers viz., Thiruvallargal (1) P. Subburayan, (2) C. Jayabalan and (3) S. Thirugnanam has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) read with the notification issued in Labour Department's G.O. Ms. No. 20/91/Lab/L, dated 23-5-1991, it is hereby directed by Secretary to Government (Labour) that the said Award shall be published in the official gazette, Puducherry.

(By order)

**G. MALAR KANNAN,**  
Joint Secretary to Government (Labour).

### BEFORE THE LABOUR COURT AT PONDICHERRY

*Present :* Thiru T. MOHANDASS, M.A., M.L.,  
II Additional District Judge,  
Presiding Officer, Labour Court.

*Wednesday, the 24th day of November 2010*

### I.D. No. 2/2009

The President,  
Puduvai Manila Pattali  
Thozhir Sangam, Pondicherry . . . Petitioner

*Versus*

The Managing Director,  
Anglo-French Textiles.  
Pondicherry . . . Respondent

This industrial dispute coming on 15-11-2010 for final hearing before me in the presence of Thiru Durai Arumugam, appearing for the petitioner and Thiru B. Mohandass, advocate for the respondent, upon hearing both sides, upon perusing the case records, after having stood over for consideration till this day, this court passed the following :

#### AWARD

This industrial dispute arises out of the reference made by the Labour Department, Government of Pondicherry *vide* G.O. Rt. No.11/AIL/Lab./J/2009, dated 4-3-2009 for adjudicating the following:-

(1) Whether the demand of the Puducherry Manila Pattali Thozhir Sangam, Puducherry against the management of M/s. Anglo-French Textiles (AFT), Puducherry for payment of wages to 3 workmen *viz.*, Thiruvalargal P. Subburayan, Code No.5577, C. Jayabalan, Code No.10004 and S. Thirugnanam, Code No. 5909 for the work done on 13-8-2007 is justified?

(2) If so, to give appropriate directions?

2 The petitioner, in his claim statement, has averred as follows:

The workmen by name 1. C. Jayabalan, 10004, 2. S. Thirugnanam 5909 and P. Subburayan 5577 were employees under the respondent mill. The said workmen, though had attended duty in Ring Frame on 13-8-2007, the respondent has not given the wages to them on that day. Hence, the petitioner's union sent a letter to the respondent and requested to give the wages to them on that day. But the respondent have not given proper reply to the petitioner and hence the petitioner's union approached the Conciliation Officer, who sent a letter to the respondent and the respondent replied that the said three workmen were posted to work in the Spinning Preparatory section due to exigencies and requirement and they have refused to work as instructed and hence refused to work was marked and they were not paid wages. But the reply given by the respondent is wrong and the petitioner's union denied the same. In case if the workmen refused to work as instructed, the show cause notice should have been issued to them and get the explanation from them. But they have not done so. Hence, this industrial dispute is filed to cancel the order of "Refused work" issued on 13-8-2007 by the respondent and direct the respondent to return the wage on the said date.

3 In the counter statement, the respondent has stated as follows:-

The notification of Government of Pondicherry is not maintainable in law and the reference has to be returned to the Government without adjudication of the issues involved in the industrial dispute as beyond its competence. The relief of the petitioner cannot be claimed before this court as this court has no jurisdiction to grant the same and the said relief relating to the payment of wages can be adjudicated only by the Industrial Tribunal constituted under the Industrial Disputes Act, 1947 and hence this Labour Court cannot decide the issue of show cause notice to three workmen concerned. Further the issue relating to want of jurisdiction to decide the subject matter of the dispute has to be taken up as a preliminary issue and be decided in the first instance. Hence, he prays for dismissal of the petition.

4. No oral evidence was adduced on either side. On the side of the petitioner. Ex.P1 to Ex.P6 were marked. On the side of the respondent, Ex.R1 to Ex.R5 were marked.

5. *The point for determination is;*

Whether the industrial dispute can be allowed?

6. *On the point:*

The contention of the petitioner is that the workmen by name 1. C. Jayabalan, 10004, 2. S. Thirugnanam 5909 and P. Subburayan 5577 were employees under the respondent mill. The said workmen, though had attended duty in Ring Frame on 13-8-2007, the respondent has not given the wages to them on that day. Hence, the petitioner's union sent a letter to the respondent and requested to give the wages to them on that day. But the respondent have not given proper reply to the petitioner and hence the petitioner's union approached the Conciliation Officer, who sent a letter to the respondent and the respondent replied that the said three workmen were posted to work in the Spinning Preparatory section due to exigencies and requirement and they have refused to work as instructed and hence refused to work was marked and they were not paid wages.

7. In order to prove their claim, Ex.P1 to Ex.P6 were marked on the side of the petitioner. Ex.P1 is the notice sent by the petitioner to the respondent claiming one day wages to the said three workmen. Ex.P2 is the letter sent by the petitioner to the Conciliation Officer informing about deduction of one day wages to the said three workmen. Ex.P3 is the copy of the letter sent by the respondent management to the Conciliation Officer. Ex.P4 is the Maistry Hand Book. Ex.P5 is the Labour Allocation Sheet and Ex.P6 is the copy of the muster roll.

8 *Per contra*, the contention of the respondent is that the said workmen were posted to work in the Spinning Preparatory section due to exigencies and requirement, but they refused to work as instructed and voluntarily worked in the Ring Frame Department and hence, 'refused to work' was marked on that day and they were not paid wages, since they had worked on their own accordingly committing insubordination and indiscipline.

9. In order to prove his claim, the respondent has marked Ex.R1 letter, dated 1-9-2007 sent by them to the petitioner. Ex.R2 is the letter, dated 14-9-2007 sent by the petitioner to the Labour Officer (Conciliation). Ex.R3 is the reply, dated 7-1-2008 filed by the respondent to the Labour Officer (Conciliation), Ex.R4 is the rejoinder filed by the petitioner to the Labour Officer (Conciliation), dated 4-2-2008. Ex.R5 is the Failure Report, dated 30-1-2009.

10. It is an admitted fact that the workmen by name 1. C. Jayabalan, 10004, 2. S. Thirugnanam 5909 and P. Subburayan 5577 were the employees under the respondent mill and on 13-8-2007 they worked in the respondent mill. But the contention of the petitioner is that though they were attended duty on 13-8-2007, they were not paid wage on that day.

11. The respondent has sent a letter to the Conciliation Officer under Ex.R3 wherein they have stated as follows:-

"On 13-8-2007 first shift 21 employees were present in the Ring Frame Department out of which, three junior employees namely T. Subburayan, 5577, C. Jayabalan, 10004 and S. Thirugnanam 5909 were posted to work in the Spinning Preparatory section due to exigencies and requirement. The abovesaid workers refused to work as instructed and voluntarily worked in the Ring Frame Department and in view of this, instead of the six allotted ring frame machines, the seventh machine was also run without authorisation. Due to their refusal to work in the preparatory section, the machines in blow room, carding and drawing were stopped which resulted in loss of production. Due to their refusal and insubordination, loss of production occurred in the blow room, carding and drawing sections. Hence, for the abovesaid three workers "refused to work" was marked on that day and they were not paid wages since they had worked on their own accord committing insubordination and indiscipline."

12. But the petitioner in their letter under Ex.R4 denied the said version of the respondent and has stated that on 13-8-2007 seven ring frame machines

were run and the said fact was known to one Arumugam, who was the Supervisor in the respondent mill and if the said Arumugam was examined, the real truth will come out. But the said Arumugam has not been examined as a witness on the side of the respondent. Even there is no oral or documentary evidence to prove the claim of the respondent.

13. The next contention of learned counsel for the second respondent is that the notification of Government of Pondicherry is not maintainable in law and the reference has to be returned to the Government without adjudication of the issues involved in the industrial dispute as beyond its competence and the relief of the petitioner cannot be claimed before this court as this court has no jurisdiction to grant the same and the said relief relating to the payment of wages can be adjudicated only by the Industrial Tribunal constituted under the Industrial Disputes Act, 1947 and hence this Labour Court cannot decide the issue of claiming wages to three workmen concerned.

13. The said workmen are the poor litigants. The Labour Courts are established to enforce the rights and privileges of the employees, who are the weaker section of the society. Their rights should not be curtailed or suppressed. At the same time, there should not be unlabour practice on both sides *i.e.* by employer and employee. This reference was sent to this court by the appropriate Government for proper adjudication to render justice to the poor workman. This court should scrutinise the reference with balance of convenience. The poor workman should not be made to run pillar to post to get one day wages for which they also attended duty. In this case, as already stated, the respondent has failed to prove that the said workmen have refused to work as instructed by the respondent management through oral or documentary evidence. Under these circumstances, the above contention cannot be taken into consideration, as the petitioner has filed number of document to show that the said workmen have attended duty on 13-8-2007, for which they were not paid wage by the respondent.

14. The power envisaged to the Labour Courts under section 7 of the Industrial Disputes Act were listed in the second schedule of the above Act. The sixth item of the above list says that the powers of this court include all matters other than those specified in the third schedule. Hence, considering the circumstances of this case, the argument of the respondent that the petitioner cannot approach before this court for the above claim is not hold good.



Therefore, the petitioner has rightly approached before this court for their relief and the relief of the petitioner is also genuine one. Accordingly, this point is answered.

15. In the result, the industrial dispute is allowed and the respondent is hereby directed to pay one day wage to the workmen by name 1. C. Jayabal, 2. S. Thirugnanasambandam and 3. T. Subburayan, which was not paid on 13-8-2007, within one month from the date of this award. However, there is no order as to costs.

Typed to my dictation, corrected and pronounced by me in the open court on this the 24th day of November, 2010.

**T. MOHANDASS,**  
II Additional District Judge,  
Presiding Officer, Labour Court.  
Pondicherry.

*List of witnesses examined for the petitioner : Nil*

*List of witnesses examined for the respondent : Nil*

*List of exhibits marked for the petitioner :*

- Ex.P1— Letter, dated 1-9-2007 sent by the petitioner to the respondent.
- Ex.P2— Letter, dated 14-9-2007 sent by the petitioner to Conciliation Officer.
- Ex.P3— Copy of the letter, dated 7-1-2007 sent by the respondent to the Conciliation Officer.
- Ex.P4— Copy of Maistry Hand Book
- Ex.P5— Copy of Labour Allocation Sheet
- Ex.P6— Copy of muster roll.

*List of exhibits marked for the respondent :*

- Ex.R1— Letter, dated 1-9-2007 to the respondent by the petitioner.
- Ex.R2— Letter, dated 14-9-2007 by the petitioner to the Labour Officer.
- Ex.R3— Reply, dated 7-1-2008 sent by the respondent to the Labour Officer.
- Ex.R4— Rejoinder filed by the petitioner to the Labour Officer, dated 4-2-2008.
- Ex.R5— Failure report, dated 30-1-2009.

**T. MOHANDASS,**  
II Additional District Judge,  
Presiding Officer, Labour Court.  
Pondicherry.

## GOVERNMENT OF PUDUCHERRY LABOUR DEPARTMENT

(G.O. Rt. No. 45/AIL/Lab./J/2011, dated 2nd March 2011)

### NOTIFICATION

Whereas, the Award in I.D.No.25/2005, dated 19-11-2010 of the Labour Court, Puducherry in respect of the industrial dispute raised by Thiru P. Rajagopalan against the management of M/s. Pondicherry Co-operative Sugar Mills Limited, Puducherry over non-employment has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) read with the notification issued in Labour Department's G. O. Ms. No. 20/91/Lab./L, dated 23-5-1991, it is hereby directed by Secretary to Government (Labour) that the said Award shall be published in the official gazette, Puducherry.

(By order)

**G. MALAR KANNAN,**  
Joint Secretary to Government (Labour).

### BEFORE THE LABOUR COURT AT PONDICHERRY

*Present :* Thiru T. MOHANDASS, M.A. M.L.,  
II Additional District Judge,  
Presiding Officer, Labour Court.

*Friday, the 19th day of November 2010*

### I.D. No. 25/2005

P. Rajagopalan . . . Petitioner

*Versus.*

The Managing Director,  
Pondicherry Co-operative Sugar  
Mills Limited. . . Respondent

This industrial dispute coming on 11-11-2010 for final hearing before me in the presence of Thiru B. Mohandass, advocate for the petitioner, Thiru. K. Palaniappan and Tmt. R. Asvani Palaniappaan, advocates for the respondent, upon hearing both sides, upon perusing the case records, after having stood over for consideration till this day, this court passed the following:

### AWARD

This industrial dispute arises out of the reference made by the Labour Department. Government, of Pondicherry *vide* G. O. Rt. No. 158/AIL/Lab./J/2005, dated 25-8-2005 for adjudicating the following :—

1. Whether the non-employment of Thiru P. Rajagopalan by the management of M/s. Pondicherry Co-operative Sugar Mills Limited, Pondicherry is justified or not?

2. To what relief, he is entitled to?

3. To compute the relief, if any, awarded in terms of money if it can be so computed?

2. The petitioner, in his claim statement, has averred as follows:

While he was working as Fitter-II in the respondent mills, the respondent management issued office order, dated 27-1-1995 granting him leave on loss of pay for a period of three years with effect from 28-1-1995. The said order stated that if required, the leave would be extended for a further period of two years.

Contrary to the above facts, the respondent issued a charge sheets, dated 27-3-1998 alleging unauthorised absence from duty continuously for more than ten days from 28-1-1998 for which the petitioner submitted his explanation, dated 11-4-1998. However without accepting the explanation submitted by the petitioner, the respondent proceeded with the disciplinary proceedings against him and finally dismissed him from service through letter, dated 21-5-1999. Aggrieved by the same, the petitioner has approached this court for redressing his grievances after exhausting the conciliation process. The Enquiry Officer has not conducted the enquiry in accordance with law and principles of natural justice. Hence, this industrial dispute is filed to declare that the termination of services of the petitioner by the respondent through order, dated 22-5-1999 is null and void, to direct the respondent to reinstate the petitioner in the post of Fitter-II in the respondent mills with continuity of service, back wages and consequential benefits and to grant damages to the tune of ₹ 2,00,000 for unlawful termination of services.

3. In the counter statement, the respondent has stated as follows :—

The petitioner was working as Fitter-II, a post falling under essential category. The office order, dated 27-1-1995 does not give any vested right to the petitioner to claim extension of leave, as of right. While extension was sought for by the petitioner, having regard to the exigency and circumstances and also the nature of his services, as essential service, the leave was not extended. Even the circular issued by the Joint Commissioner of Sugar, Tamil Nadu does not apply to the services of Essential Categories and even otherwise, it would be a matter of discretion, when the extension is sought.

As the leave was not extended beyond 27-1-1998, the absence of the petitioner from duty from 28-1-1998 continuously for more than 10 days was an act of misconduct, in terms of standing orders of the mills. Therefore, the disciplinary proceedings were initiated against the petitioner and he was dismissed from service by the order, dated 29-5-1998 by holding an enquiry in accordance with the principles of natural justice.

4. On the side of the petitioner. PW.1 was examined and Ex. P1 to Ex. P18 were marked. On the side of the respondent, RW1 was examined and no document was marked on their side.

5. *The point for determination is :*

Whether the petitioner can be considered for reinstatement in service with back wages?

6. *On the point :*

The contention of the petitioner is that while he was working as Fitter-II in the respondent mills, the respondent management issued office order, dated 27-1-1995 granting him leave on loss of pay for a period of three years with effect from 28-1-1995. The said order stated that if required, the leave would be extended for a further period of two years. Contrary to the above facts, the respondent issued a charge sheet, dated 27-3-1998 alleging unauthorised absence from duty continuously for more than ten days from 28-1-1998 for which the petitioner submitted his explanation, dated 11-4-1998. However without accepting the explanation submitted by the petitioner, the respondent proceeded with the disciplinary proceedings against him and finally dismissed him from service through letter, dated 21-5-1999.

7. *Per contra*, the contention of the respondent is that the office order, dated 27-1-1995 does not give any vested right to the petitioner to claim extension of leave, as of right. While extension was sought for by the petitioner, having regard to the exigency and circumstances and also the nature of his services, as essential service, the leave was not extended. Even the circular issued by the Joint Commissioner of Sugar, Tamil Nadu does not apply to the services of Essential Categories and even otherwise, it would be a matter of discretion when the extension is sought.

8. On the side of the petitioner, Ex.P1 to Ex.P18 were marked. Ex.P1 is a copy of the letter, dated 20-1-1995 submitted by the petitioner to the respondent requesting leave for a period of five years. The request of the petitioner was accepted by the respondent and granted leave for three years *vide* their letter, dated 18-8-1991 as could be seen from Ex.P2. Ex.P2 would further disclose that the period of employment abroad shall normally be three years which can be extended for

a further period of two years. Ex.P3 the office order, dated 27-1-1995 issued by the respondent to the petitioner would confirm the said fact. Hence, the petitioner has proved through Ex.P2 and Ex.P3 that he was granted leave for three years and if required the leave will be extended for a further period of two years.

9. The main contention of the petitioner is that in contrary to the above facts, the respondent issued a charge sheet, dated 27-3-1998 alleging unauthorised absence from duty continuously for more than ten days from 28-1-1998, for which the respondent has stated that while extension was sought for by the petitioner, having regard to the exigency and circumstances and also the nature of his services as essential service, the leave was not extended and as the leave was not extended beyond 27-1-1998, the absence of the petitioner from duty from 28-1-1998 continuously for more than ten days was an act of misconduct, in terms of the standing orders of the mills.

10. From the evidence of PW.1, it is seen that the petitioner has applied leave for five years to go to Brunei for employment purpose and the period of contract is five years and the respondent has sanctioned leave for three years, which can be extended for a further period of two years. PW.1 has further stated in his cross-examination that before expiry of leave for three years, the respondent has sent a letter to him to report for duty and he requested the respondent management to extend the leave for further period of two years, but the extension order has not been sent by the respondent.

11. From the above contentions, it is clear that the petitioner had left India with sanction of leave by the respondent. When the petitioner has applied leave for a period of five years, it is for him to ascertain that the leave was sanctioned and then to proceed to foreign to join duty there. But at the same time, perusal of Ex.P6 notice, dated 12-7-1997 would reveal that the respondent sent a notice to the petitioner informing that his leave has not been acceded to as his services were coming under essentiality and that his absence causes dislocation of work in the mills. When the leave application Ex.P1 has been submitted by the petitioner on 20-1-1995 to the respondent, which is also granted by the respondent for the period of three years, why they have sent a notice Ex.P6 to recall the petitioner and to report for duty within seven days from the date of receipt of the notice, before expiry of the said period of three years, is not explained by the respondent, particularly when the petitioner wanted to go abroad, which was clearly mentioned in his leave application Ex.P1.

12. Though granting of leave is a discretionary power on the part of the respondent management, they should see the circumstances of the employees, in

which they are working. Normally, when a person goes abroad for any job, he cannot return without completing the contract period. Hence, the respondent management should take careful decision firstly before sanctioning leave and secondly before recalling its employees in the above circumstances. Initially granting leave and subsequently recalling them for work, citing essentiality of service is unfortunate and unfair.

13. The petitioner in his claim statement averred that the domestic enquiry has not been conducted by the Inquiry Officer as prescribed by law in a neutral manner. The Inquiry Officer has conducted the domestic enquiry in a biased manner without giving any opportunity, which are entitled for the delinquents as per law as well as by the principles of natural justice. Moreover the Inquiry Officer has not heard the contentions of the petitioner and the enquiry report has also been submitted with unjustified findings. In fact the petitioner has not committed any misconduct as alleged by the respondent. But the management has taken action by way of issuing show cause notice and by way of conducting domestic enquiry without following the principles of natural justice and on wrong conclusion by the Inquiry Officer the management dismissed the petitioner.

14. The management filed its counter before this court that they have followed the principles of natural justice while charging the delinquent and conducting the domestic enquiry by a neutral Inquiry Officer and on proved charges alone, the petitioner had been dismissed from his services as per the principles of natural justice. It was stated by the management that though the petitioner has been given fair chance to peruse the records as well as to cross-examine the witnesses who were examined on the side of the management in the domestic enquiry, he failed to utilise the same. The Inquiry Officer has decided the enquiry in an *ex parte* manner and on considering the documents as well the evidences of the management witnesses, he had rightly come to the conclusion that the charges of the petitioner were proved and on the conclusion of the report submitted by the Inquiry Officer, the petitioner has been terminated from his services by way of punishment for the mistake committed by them and hence, there is no scope to intervene the order of this management by the Labour Court and prays for the dismissal of the reference.

15. The cardinal point that has to be borne in mind in every case, is whether the person concerned should have a reasonable opportunity of presenting his case and the authority should act fairly, justly, reasonably and impartially. It is not so much to act judicially but is to act fairly, namely, the procedure adopted must be just, fair and reasonable in the particular circumstances

of the case. In other words, application of the principles of natural justice that no man should be condemned unheard intends to prevent the authority from acting arbitrarily and affecting the rights of the person concerned.

16. It is a fundamental rule of law that no decision must be taken which will affect the right of any person without first being informed of the case and giving him an opportunity of putting his case. The duty to give reasonable opportunity to be heard will be implied from the nature of the function to be performed by the authority which has the power to take punitive or damaging action. They have a duty to proceed in a way which is free from even the appearance of arbitrariness, unreasonableness or unfairness. They have to act in a manner which is patently impartial and meets the requirements of natural justice and the must take care to see that justice is not only done but manifestly appears to be done.

17. Perusal of records would reveal that after receipt of the letter from the respondent about non-sanctioning of the leave, he sent letters about his inability to report for duty. But the respondent proceeded with the disciplinary action. The petitioner in his letter, dated 24-4-1998 Ex.P4 has stated as follows :—

“..... Though the leave sanction order granted me leave absolutely for three years with effect from 28-1-1995, I requested extension of leave for further period of two years through letter, dated 11-6-1997. In that letter, I clearly pointed out that I cannot break the contract of employment before the completion of five years from my joining the service and if I break the contract before that period, I will be forced to lose all benefits as well as heavier compensation. Further my passport is also with the employer which will not be handed over to me until completion of the agreed period. In fact, when the management started enquiry against me on the ground of unauthorised absence from duty for more than ten days, I approached my employer at Brunei for relieving me from duty for the purpose of coming back to India and to continue my employment in Pondicherry Co-operative Sugar Mills Limited, P 315. But my foreign employer refused my request and through letter, dated 29-12-1997, I was informed that the request for relief could not be considered as I have entered a contract to work until December 1999. ...”

The respondent has not considered the above material points submitted by the petitioner. Since the petitioner was abroad, on his behalf one Nallthambi, Defence Assistant participated in the enquiry. After adjourning four hearings, the Enquiry Officer came to the conclusion that since adequate opportunities had

been given to the petitioner, he decided to furnish the report on the merits of the case. No management witnesses have been examined and cross-examined. In the absence of the petitioner, the Inquiry Officer decided the enquiry against him that the charges framed against him are proved. The Inquiry Officer should not have come to a conclusion without giving opportunity to the petitioner, which shows the biasedness of the Inquiry Officer against the petitioner.

18. It is the enquiry conducted *ex parte* and dismissal of the petitioner's service based on the *ex parte* enquiry report is against the principles of natural justice as well as the labour laws. The labour laws are for the welfare of the workmen to safeguard them from the revengeful attitude of the management towards work force. There is nothing wrong on the part of the management to conduct the enquiry against the petitioner, after giving opportunity to him to participate in the enquiry proceedings and to let in rebuttal evidence and thereafter arriving at a finding, in this case, the enquiry had been conducted in an *ex parte*. Since it was an *ex parte* enquiry, we need not go into the sustainability of the charge. Upon the *ex parte* enquiry report alone, the respondent management also acted to dismiss their employee, which is against the principles of natural justice.

19. The respondent company has taken action against the petitioner based on the *ex parte* enquiry report and when the respondent has conducted the domestic enquiry in a biased manner without giving any opportunity which are entitled for the petitioner as per law as well as by the principles of natural justice, the decision of dismissal of the petitioner from the company by the respondent is an erroneous one and is also unjustified and hence the petitioner can get the benefit of reinstatement.

20. *The next issue before me is:—* Whether the petitioner is entitled to full back wages. This issue must be determined keeping in view the aforementioned background of the case. There can, however, be no doubt whatsoever that there has been a shift in the approach of this court in regard to payment of back wages. Back wages cannot be granted almost automatically upon setting aside an order of termination. The Hon'ble Apex Court and High Courts in a number of decisions opined that grant of back wages is not automatic. The burden of proof that he remained unemployed would be on the workmen keeping in view of the provisions contained in section 106 of the Evidence Act, 1972. This court in the matter of grant of back wages has laid down certain guidelines stating that therefore several factors are required to be considered including the nature of appointment; the mode of recruitment; the length of service.

21. It is also trite that for the purpose of grant of back wages, conduct of the concerned workman also plays a vital role. Each decision, as regards grant of back wages or the quantum thereof, would, therefore, depend on the facts of each case. It cannot be claimed as a matter of right. The petitioner cannot get two wages from the two employers for the same period. Considering the facts and circumstances of this case, this court comes to the conclusion that the petitioner is not entitled to get the full back wages, continuity of service and other benefits. The point is decided accordingly.

22. In the result, the industrial dispute is allowed and the respondent is hereby directed to reinstate the petitioner. However, the petitioner is not entitled to get full back wages, continuity of service and other benefits. There is no order as to costs.

Typed to my dictation, corrected and pronounced by me in the open court on this the 25th day of November 2010.

**T. MOHANDASS,**  
II Additional District Judge,  
Presiding Officer, Labour Court,  
Pondicherry.

*List of witnesses examined for the petitioner :*

PW1 — 4-3-2010 - Rajagopalan

*List of witnesses examined for the respondent :*

RW1 — 23-9-2010 - Pannerselvam

*List of exhibits marked for the petitioner :*

- Ex.P1 — Letter, dated 20-1-1995 sent by the petitioner to the respondent.
- Ex.P2 — Office order, dated 27-1-1995 issued by the respondent.
- Ex.P3 — Charge memo., dated 27-3-1998
- Ex.P4 — Explanation, dated 24-4-1998 submitted by the petitioner.
- Ex.P5 — Letter, dated 11-6-1997 submitted by the petitioner.
- Ex.P6 — Notice, dated 12-7-1997 sent by the respondent to the petitioner.
- Ex.P7 — Notice of enquiry, dated 8-9-1997 sent by the Enquiry Officer.
- Ex.P8 — Advocate notice, dated 21-2-1998
- Ex.P9 — Enquiry report, dated 25-2-1999
- Ex.P10 — Show cause notice, dated 6-3-1999
- Ex.P11 — Explanation, dated 14-5-1999 submitted by the petitioner.
- Ex.P12 — Office order, dated 27-5-1999
- Ex.P13 — Advocate notice, dated 30-6-1999 sent by the petitioner.
- Ex.P14 — Reply, dated 31-7-1999 sent by the respondent.

Ex.P15 — Failure report, dated 31-3-2001

Ex.P16 — Representation, dated 13-6-1994

Ex.P17 — Memorandum, dated 10-3-1994 sent by the respondent.

Ex.P18 — Standing orders of the respondent mills.

*List of exhibits marked for the respondent : Nil*

**T. MOHANDASS,**  
II Additional District Judge,  
Presiding Officer, Labour Court,  
Pondicherry.

**புதுச்சேரி அரசு**

**இந்து சமய நிறுவனங்கள் மற்றும் வக்ஃபு துறை**

(அரசு ஆணை பலவகை எண் 12/இசுரி./கோ.4/2011இ  
நாள் 2011 மார்ச் 25 ஆம்.)

**ஆணை**

புதுச்சேரி, பாகூர் கொம்புன், சோரியாங்குப்பம், அருள்மிகு செடல் செங்கமுநீர்மன் தேவஸ்தானம் அரசு ஆணை ப.வ.எண் 5/இசுரி./கோ-4/2007, நாள் 2-5-2007-ன் மூலம் அமைக்கப்பட்ட அறங்காவலர் வாரியத்தால் நிர்வகிக்கப்பட்டு வருகிறது. இவ்வறங்காவலர் வாரியத்தின் பதவிக்காலம் முடிவடைந்துவிட்டது.

2. இந்நிலையில் மேற்கூறிய தேவஸ்தானத்திற்கு புதிய அறங்காவலர் வாரியம் அமைக்கும் வரையில் ஒரு சிறப்பு அதிகாரியை நியமனம் செய்து நிர்வகிப்பது இன்றியமையாதது என்று அரசால் கருதப்படுகிறது.

3. எனவே, 1972-ஆம் ஆண்டு புதுச்சேரி இந்து சமய நிறுவனங்கள் சட்டம் 4-ஆம் பிரிவின் கீழ் வழங்கப்பட்டுள்ள அதிகாரங்களைச் செலுத்தி, புதுச்சேரி, பாகூர் வட்டாட்சியர் அலுவலகத்தில் கிராம நிர்வாக அலுவலராகப் பணிபுரியும் திரு. கேசவன் அவர்கள், சோரியாங்குப்பம் அருள்மிகு செடல் செங்கமுநீர் மாரியம்மன் தேவஸ்தானத்திற்கு சம்பளம் பெறாச் சிறப்பு அதிகாரியாக அரசால் இதன்மூலம் நியமனம் செய்யப்படுகிறார்.

4. திரு. கேசவன் அவர்கள் மேற்கூறிய தேவஸ்தானத்தின் நிர்வாகத்தை அதன் அசையும், அசையாச் சொத்துக்கள், இதர ஆவணங்களுடன் பதவி விலகும் அறங்காவலர் வாரியத்திடமிருந்து பொறுப்பேற்றுக்கொண்டு, அரசுத் துறையில் தான் வகிக்கும் பதவிக்குக் கூடுதலாகவும், 1972-ஆம் ஆண்டு புதுச்சேரி இந்து சமய நிறுவனங்கள் சட்டம் மற்றும் அதன்கீழ் உருவாக்கப்பட்டுள்ள விதிகளுக்கு இணங்கவும், தேவஸ்தானத்தின் நிர்வாகத்தைக் கவனித்து வரவேண்டும்.

5. சிறப்பு அதிகாரி நியமனம் ஓர் இடையேற்பாடு என்பதால், தேவஸ்தான நிர்வாகம் தொடர்பான அன்றாடப் பணிகள் மட்டுமே சிறப்பு அதிகாரி கவனித்து வர வேண்டும். அறங்காவலர் வாரியத்தால் எடுக்கப்படக்கூடிய எவ்வித கொள்கை முடிவும் இந்து சமய நிறுவனங்கள் ஆணையர் அனுமதியின்றி சிறப்பு அதிகாரி மேற்கொள்ளக்கூடாது.

(துணைநிலை ஆளுநரின் ஆணைப்படி)

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